



April 12, 1999

Ms. Tracy B. Calabrese
Senior Assistant City Attorney
City of Houston
P.O. Box 1562
Houston, Texas 77251-1562

OR99-0979

Dear Ms. Calabrese:

You ask this office to reconsider our ruling in Open Records Letter No. 99-0230 (1999). Your request was assigned ID# 123761.

The City of Houston (the “city”) received a request for the “affirmative action file related to C.J. Construction.” In Open Records Letter No. 99-0230, this office concluded in part that the city could not withhold certain information under section 552.127 of the Government Code because the information was generated by the city and not submitted by the vendor.

In your request for reconsideration, you have provided additional information in an attempt to demonstrate the applicability of section 552.127 to the marked information. We note that a governmental body must explain the reasons why the stated exceptions apply within fifteen days of receiving the request. *See* Gov’t Code § 552.301. You did not timely submit all your arguments under section 552.127 in connection with the city’s original request for a ruling. However, because the release of the information will implicate a third party’s interests, we will consider the merits of your original argument against disclosure.

Section 552.127 of the Government Code provides that:

(a) Information submitted by a potential vendor or contractor to a governmental body in connection with an application for certification as a historically underutilized or disadvantaged business under a local, state, or federal certification program is excepted from [required public disclosure], except as provided by this section.

(b) Notwithstanding Section 552.007 and except as provided by Subsection (c), the information may be disclosed only:

(1) to a state or local governmental entity in this state, and the state or local governmental entity may use the information only:

(A) for purposes related to verifying an applicant's status as a historically underutilized or disadvantaged business; or

(B) for the purpose of conducting a study of a public purchasing program established under state law for historically underutilized or disadvantaged businesses; or

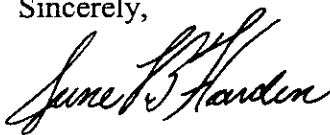
(2) with the express written permission of the applicant or the applicant's agent.

(c) Information submitted by a vendor or contractor or a potential vendor or contractor to a governmental body in connection with a specific proposed contractual relationship, a specific contract, or an application to be placed on a bidders list, including information that may also have been submitted in connection with an application for certification as a historically underutilized or disadvantaged business, is subject to required disclosure, excepted from required disclosure, or confidential in accordance with other law.

You state that the marked information was orally submitted by C.J. Construction in connection with its application for certification as a historically disadvantaged business. After reviewing the submitted information and your arguments, we conclude that the marked information is made confidential under section 552.127 and must not be released. Open Records Letter No. 99-0230 is overruled to the extent that it conflicts with this ruling.

If you have any questions about this ruling, please contact our office.

Sincerely,

A handwritten signature in cursive script, appearing to read "June B. Harden".

June B. Harden
Assistant Attorney General
Open Records Division

JBH/ch

Ref.: ID# 123761

Encl. Submitted documents

cc: Mr. Wayne Dolcefino
KTRK-TV
3310 Bissonet
Houston, Texas 77006
(w/o enclosures)